

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

INVESTIGATION INTO WHETHER WATS
RESELLERS SHOULD BE INCLUDED IN
THE ULAS ALLOCATION PROCESS

) ADMINISTRATIVE
) CASE NO. 328
)

O R D E R

This matter arising upon petition of Telcor, Inc. d/b/a Telamarketing Communications of Louisville and LDDS of Indiana, Inc. d/b/a LDDS Communications (formerly Telamarketing Communications of Evansville, Inc.) (jointly "LDDS"), filed August 2, 1989 for confidential protection of certain information filed with this Commission pursuant to its Order of May 1, 1989 and it appearing to the Commission as follows:

LDDS seeks to protect from public disclosure the information filed in response to Items 2 (b)-(e), 4, 5, 6, 7, 9, 10, 11, and 12 of the Commission's May 1, 1989 Order on the grounds that the information is not generally known outside of LDDS, is known to those LDDS employees who have a legitimate business need to know the information in order to perform their job responsibilities, is commercially sensitive and would be of substantial value to LDDS competitors, and could be used by LDDS's competitors to LDDS's detriment.

807 KAR 5:001, Section 7, protects the information as confidential when it is established that the disclosure will result in competitive injury to the person possessing the

information in that it will provide those competitors with an unfair business advantage. In other words, the person seeking to protect the information must establish that public disclosure is likely to cause substantial harm to the competitive position of that person and that benefits to be derived from the protection of the information from disclosure outweigh the public's interest in disclosure. LDDS has not established that disclosure of the information sought to be protected is likely to cause substantial harm to its competitive position, and therefore the petition should be denied.

Item 2 requires LDDS to identify the services it markets to end-users. This information is included in LDDS's published tariffs which are a matter of public record. Because this information is a matter of public record elsewhere, it is not entitled to confidential protection in this record.

Items 4, 5, 6, and 7 require LDDS to identify the access services purchased from local exchange companies. Only a limited number of switched access services are available to LDDS, and these services are purchased according to published tariffs filed by the local exchange companies. These tariffs are open for public inspection by all of its competitors, and anyone having an interest in them. Therefore, public disclosure of those services which LDDS purchases will not affect LDDS's competitive position.

Item 9 requires LDDS to provide the percentage of interstate traffic which it carries in each feature group or as a composite of the whole. It does not provide information as to the actual volume of such traffic and its disclosure would not result in

competitive injury to LDDS. Therefore, the information is not entitled to confidential protection.

Item 10 requires LDDS to furnish information concerning the services it purchases from interLATA carriers. Here again, LDDS can only purchase a limited number of services available to it under its certificated authority, and these services are purchased according to published tariffs which are a matter of public record. Therefore, the disclosure of this information will not affect LDDS's competitive position.

Item 11 requires LDDS to identify all local exchange services that it purchases from local exchange companies in Kentucky. Item 12 requires LDDS to identify all intraLATA interexchange services it purchases from local exchange companies in Kentucky. These services are also purchased according to published tariffs which are matters of public record and disclosure will not affect LDDS's competitive position.


This Commission being otherwise sufficiently advised,

IT IS ORDERED that the motion to protect from public disclosure, LDDS's responses to Items 2 (b)-(e), 4, 5, 6, 7, 9, 10, 11, and 12 of the Commission's May 1, 1989 Order are hereby denied and the said responses shall be open to public inspection.

Done at Frankfort, Kentucky, this 31st day of August, 1989.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:

Executive Director